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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,030	10/25/2004	Jurgen Rosin	081859-0104	8519
22428	7590	09/08/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			WOLFE JR, WILLIS RAY	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/502,030

Applicant(s)

ROSIN ET AL.

Examiner

Willis R. Wolfe, Jr.

Art Unit

3747

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12 and 13 is/are rejected.
- 7) ☒ Claim(s) 9-11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/21/04;01/18/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klipfel et al (US 6,718,956) in view of Damsohn et al (DE 199 62 863). Klipfel et al discloses the claimed invention except for providing the bypass passage in a separate part of the EGR cooler housing. Damsohn et al teaches that it is known to provide a bypass passage (20) in a separate part of the EGR cooler housing

(12) as shown in Figure 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the EGR cooler housing of Klipfel et al by providing the bypass passage being in a separate portion of the housing from the EGR cooler as taught by Damsohn et al in order to provide a direct flow of EGR without cooling the gas to the intake manifold.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klipfel et al in view of Damsohn et al as applied to claim1 above, and further in view of Klipfel et al (DE 100 25 877). Klipfel et al in view of Damsohn et al discloses the claimed invention except for the particular valve structure of the closure member. Klipfel et al ('877) teaches that it is known to provide a closure member with a concave sealing surface (68) as shown in Figure 7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the EGR cooler housing of Klipfel et al by providing the bypass passage being in a separate portion of the housing from the EGR cooler as taught by Damsohn et al in order to provide a direct flow of EGR without cooling the gas to the intake manifold, and further to modify the closure member by providing a concave sealing surface as taught by Klipfel et al ('877) in order to provide better control of the flow of EGR through the cooler housing.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Klipfel et al in view of Damsohn et al as applied to claim1 above, and further in view of Rinckel (US 6,141,961). Klipfel et al in view of Damsohn et al discloses the claimed invention

except for the particular valve structure of the closure member. Rinckel teaches that it is known to provide a closure member with an angled flap (80,88) as shown in Figures 6-8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the EGR cooler housing of Klipfel et al by providing the bypass passage being in a separate portion of the housing from the EGR cooler as taught by Damsohn et al in order to provide a direct flow of EGR without cooling the gas to the intake manifold, and further to modify the closure member be an angled flap as taught by Rinckel in order to provide better control of the flow of EGR through the cooler housing.

Allowable Subject Matter

Claims 9-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

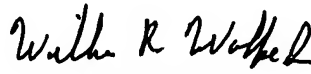
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references of Sheridan et al and Leedham et al are cited to show an EGR cooler with a bypass passage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willis R. Wolfe, Jr. whose telephone number is (571) 272-4855. The examiner can normally be reached on Tuesday, Wednesday and Friday (5:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry C. Yuen can be reached on (571) 272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Willis R. Wolfe, Jr.
Primary Examiner
Art Unit 3747

WRW
August 26, 2005